

From: Gizzi Appraisal Service, Inc. , Marc and Denise Gizzi
Subject: Regulation Z -- Truth in Lending

Comments:

To: [Jamie.Z.Goodson], [Lorna.M.Neill], [Virginia.Gibbs], [Walter.McEwen]
Date: 04/20/2011 11:22 PM
Subject: RE: FRANK/DODD AND THE FINAL INTERIM RULING-PLEASE READ

Dear Friends,

We respectfully ask that you take the time to read below and if you agree with it, sign the petition as well as pass it on to as many people you can. It is very important to the Real Estate Industry, Consumers, and quite frankly, our family business that we get this out to as many people as possible. We (the people involved in starting the petition) have made great strides since April 1st when the FINAL INTERIM RULE took place.

We understand the text below is a little long but is worth the read to understand what exactly is going on with the Frank/Dodd ruling, the Final Interim Ruling which ultimately concerns the housing market in our country. We have included some links that also concern the topic if you choose to read them. The first link below is the petition.

We greatly appreciate any help you can give and thank you for your time.

Marc and Denise Gizzi

This is an explanation of what all of this means to anyone that is not in the industry but would like to get the facts concerning this. This ultimately is and will affect the public whether you are connected with the real estate industry or not. There may be someone you know involved, you may be trying to buy, sell, refinance, modify, etc... your home loan. The appraising of real estate is a very important part of the real estate transaction and one of the most important, especially for the lender.

I will try to simply explain as best I can below:

AS of May 1, 2009 a ruling took place, it is my understanding it was not law, that lenders follow HVCC (home valuation code of conduct). This was for lenders to comply with, not appraisers. The purpose was for originators of loans or anyone involved in a loan process that would receive monetary proceeds from the transaction not be allowed to order or obtain the services of an appraiser directly. This caused the Appraisal Management Companies (AMC) the few in existence, to explode. AMCs are considered the middle man, third party or firewall between the real estate loan originator and appraiser to deter any undue influence on the appraiser in regard to values. This was started by Andrew Cuomo (NY Gov.) who by the way has a long history with AMCs and has/had a stake in it from the start.

Since this HVCC ruling is no longer in effect, due to the Frank/Dodd federal regulation law and Final Interim Ruling, which took effect on April 1, 2011 there is no need for this middle man at all. Even though this is the case, many

lenders remain using the same business model when ordering appraisals thinking it's keeping them in compliance which is not needed.

AMCs contract with lenders for their appraisal work and farm that work out to appraisers across the country and pay the appraisers a fee for their work. That sounds simple, right?

Wrong!

If an appraiser receives an appraisal order from an AMC the independent appraiser should be able to quote their own fee as it has always been. That is not the case. This is how it works with the AMC- they charge a fee (an overpriced fee) from the consumer (homeowner, buyer, seller) order the appraisal from the appraiser at a fee that is anywhere from 30-50% less then what the consumer paid- this is what they consider their compensation. Now I don't know about you but we consider this fee, the AMC compensation, should come from the lender not the appraiser. After all, the lender wants and needs the product; the AMC is robbing both the consumer and the appraiser.

Many appraisers across the country have had to close their businesses, downsize their businesses and the industry is in turmoil over this. Appraiser can't market their services in a free market since the AMC price fixing, in my opinion, and deterring the appraiser the opportunity to compete with his peers. There are many appraisers that have no choice but to accept these lower fees or suffer the consequences which can range from not having money to put food on your table, not paying your bills, losing your home to foreclosure and the list goes on.

An example of the fee situation is this:

AMC CHARGES CONSUMER \$500
AMC KEEPS \$300
AMC PAYS APPRAISER \$200

Why are they not contracting with the lenders to cover the costs of the service they supposedly provide? They choose the least experienced, fastest and cheapest appraiser and usually from out of the area where they have no direct market experience. This causes many problems when it comes to the outcome of the appraisal, as you can imagine.

Banks and lenders for many years had their own in-house appraisal departments and used a round robin system when ordering. This has been proven to work very well. A good example is the VA. They have a set fee, that is reasonable and customary and use a rotation system that works without a problem. Appraisers need to be able to quote their fees according to the amount of work that is involved in each appraisal. No two homes are alike and there are many factors that involve the fee deciding process.

The letter to the Federal Reserve Board below explains in detail exactly what has happened for the AMC to circumvent the system once again. Appraisers are fighting back and need to get this looked at as soon as yesterday. As I wrote earlier, families from any aspect of this industry depend on it. It's bad enough the job market is in the dumps and people can't find jobs, now we have a whole new industry of people looking into changing professions to make ends meet, looking for part time jobs, etc. The competition is fierce out there and the state of the economy is bleak at the moment. It's not a good sign for things to come if this is not worked out.

Again, we thank you very much for helping out and taking the time to read all of this information.

God Bless America!

To: Federal Reserve Board, U.S. Congress, Federal Financial Institutions Examination Council, Federal Trade Commission
Federal Reserve Board -

Subject: Potential violations of the prohibitions in TILA against the use of AMC fees as the basis for determining reasonable and customary appraisal fees.

On October 18, 2010, the Federal Reserve Board announced an interim final rule to Regulation Z of Title 12, also known as the Truth in Lending Act (TILA). One of the elements to Regulation Z is a binding requirement upon creditors and appraisal management companies to ensure that appraisers who are not employees of creditors or of the appraisal management companies receive customary and reasonable payments for their services.

In preparing this interim final rule, the Federal Reserve Board did not specifically identify which appraisal fee schedules, surveys or studies that would be appropriate to designate as a 'safe harbor' for creditors and their agents to comply with the reasonable and customary fee requirements of TILA. In lieu of identifying these schedules, surveys or studies, the Board basically offered two alternatives to creditors and appraisal management companies; either conduct their own surveys of fees for a locale and operate off the presumption that those surveys are reasonably accurate (Presumption 1), or rely on other fee surveys or studies conducted by objective third parties such as government agencies, academic institutions, and private research firms and rely on the presumption that they are accurate (Presumption 2).

The specific language of both (TILA) and the FRB's interim final rule specifically exclude the use of AMC fees as the basis for identifying the thresholds for reasonable and customary appraisal fees. In fact, the final interim rule specifically refers to this prohibition several times.

It is our assertion that there is no language in the "Presumption 1" paragraphs that indicate that either Congress or the Board intended to allow the AMCs to include their own fees or those of other AMCs as the basis for reasonable or customary appraisal fees. We believe it is obvious that the term:

"...recent rates paid for comparable appraisal services..."

as stated in Presumption 1 *is not* synonymous with, nor should it be interpreted as:

"...recent rates paid by AMCs for comparable appraisal services..."

We also assert that ample evidence exists in the market in virtually all locales as to what local appraisers charge their non-AMC clients for such appraisal work. No AMC is compelled to actually wonder what fees the appraisers charge their non-AMC clients - all they have to do is pick up the phone and start asking.

As of the implementation date of the final interim rule, many appraisal management companies have made a good faith effort to comply with the requirements in TILA to ensure that the appraisers they engage are paid fees

that are reasonable and customary for those markets. Some of these AMCs have accomplished this by employing Presumption 1 (conducting their own market surveys), while others have accomplished this by employing Presumption 2 (relying on other published fee schedules and surveys developed by objective third parties). Some AMCs have gone so far as to employ both methods as a means of ensuring their compliance. As appraisers, we applaud and support the good faith efforts of those AMCs that have chosen to adhere to the law as written.

Sadly, as of the implementation date of 04/2011, some AMCs have chosen to flaunt both the letter and specific intent of the law (TILA) as well as that of the interim final rule. Despite the specific prohibition against including AMC fees as part of those surveys, a few of the high profile AMCs have even gone so far as to erroneously assert that the final interim rule specifically allows them to reference their own fees and/or those of other AMCs in their surveys. This, despite the repeated references in TILA and the interim final rule to the contrary.

To the extent such violations are occurring in the market the results serve to undermine both the letter and intent of the law (TILA) as written. The "violator" AMCs have undermined the level playing field on which they compete in the market with other AMCs that are in compliance, not to mention seriously degrading the economic viability of the appraisers who actually perform the appraisals being used in these transactions. The damages to the professional appraiser community extend across all levels of experience and competency, and serve to induce some appraisers who work for the AMCs to attempt to compensate for these grossly substandard fees by sacrificing quality and due diligence for increased assignment volume. Obviously this has also had a negative impact on the utility of those appraisals as used by the creditors, not to mention the negative impacts on consumer interests and the federal banking regulatory interests.

Simply put, if a violator AMC is billing a consumer \$500 or more for a comprehensive residential appraisal, that consumer's interests cannot be well served on a consistent basis when that AMC makes their primary choice of appraiser based on a unilaterally imposed fee structure that is, in some cases, less than half of the prevailing rate being charged in the market to any other type of user. That some of the biggest AMCs are wholly-owned subsidiaries of the lending institutions they represent essentially amounts to an additional hidden fee being paid - by the consumers - to those lenders in those loan transactions.

We, the undersigned, represent a large number of licensed and certified real estate appraisers in the United States. We respectfully request that the Board take action to publicly reiterate the prohibitions contained in both TILA and the Board's interim final rule against the reliance on any survey, conducted by any party, that unlawfully includes AMC fees and purports to use them as the basis, in part or in whole, for establishing the thresholds for reasonable and customary appraisal fees as referenced. In addition to public guidance, we also request that the Board act promptly and effectively to investigate complaints involving allegations of the blatant violations of these prohibitions as stated.

We thank you for your cooperation and assistance.
Sincerely,
The Undersigned

GIZZI APPRAISAL SERVICE, INC.